ANNUAL REPORT 2010

Labour Relations Board

BRITISH COLUMBIA

LABOUR RELATIONS BOARD

2010
ANNUAL REPORT

Ministry of Labour, Citizens' Services and Open Government
Honourable Margaret MacDiarmid, Minister

October 25, 2011

The Honourable Margaret MacDiarmid
Minister of Labour, Citizens' Services and Open Government
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Honourable Minister:

RE: Labour Relations Board 2010 Annual Report

I am pleased to forward the 2010 Annual Report of the Labour Relations Board for the year ending December 31, 2010. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,

LABOUR RELATIONS BOARD

Brent Mullin
Chair

Enclosure

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CHAIR'S MESSAGE

In this year's Chair's Message, I want to provide some insight into the valuable work done by the Labour Relations Board's Mediation Division. That work covers the full scope of industries and services in British Columbia and is critical to communities throughout the length and breadth of our province.

A high profile example of the Board's mediation work occurred during the 2010 Winter Olympics. During the Winter Olympics, Host Services and UNITE HERE, Local 40 became engaged in a collective bargaining dispute. It resulted in job action which shut down food and concession services at Vancouver International Airport. Board Mediators assisted in resolving the dispute prior to the busiest travel day during the Olympics and thus averted what may have been a black mark on an otherwise labour relations dispute free Winter Olympic Games.

The importance of the Board's dispute resolution to specific communities in British Columbia can be seen in a resolution reached with the assistance of the Mediation Division in the transportation sector. The settlement between Western Pacific Marine and the British Columbia Government and Service Employees' Union covered approximately 120 employees at Arrow Lakes Inland Ferry and Kootenay Lake Inland Ferry. Those ferry systems provide important linkages between many Kootenay communities.

The Mediation Division also assisted settlements in important private sector industries such as mining. Examples in mining in 2010 included the Mediation Division assisting a settlement involving 160 workers employed at the Teck Coal Mountain Operation represented by the United Mine Workers. In a further case, the Board issued recommendations which settled a dispute in respect to 57 employees represented by the United Steelworkers Local 816 at Texada Quarrying Ltd., a critical supplier of limestone to the construction industry.

The Board's Mediators also routinely assist in achieving settlements in the health care and service sectors. In the service sector in 2010, the mediation of unique terms and conditions governing employees working from home assisted in finalizing a first contract between Yellow Pages Group and COPE 378. Board Mediators also assisted settlements in respect to services being provided to seniors. Those settlements included Langley Seniors Village and Well Being Senior Services, represented by the Hospital Employees' Union.

In the public sector, Board Mediators assisted numerous settlements in the municipal sector in 2010. They included a settlement at Quesnel with CUPE Local 1050, where the parties were poised for job action affecting 110 employees and services to the local population of approximately 10,000. Other municipal settlements with CUPE locals included the Village of Keremeos and District of Summerland. Board assisted settlements with the BCGEU in the municipal sector

included the District of Hudson Hope and the Regional District of the Okanagan Similkameen.

The Board's Mediators facilitated settlements in respect to other services as well. The head of the Board's Mediation Division, Debbie Cameron, mediated a dispute involving 106 employees at the Legal Services Society, represented by the BCGEU. Resolutions were also assisted in respect to the Business Practices and Consumer Protection Authority and Themis Program Management and Consulting, both of whose employees are represented by the BCGEU.

Within the Mediation Division, developments included the addition of two new Mediators, Christina Bains and Trevor Sones, who were promoted from the two year mediation internship program at the Board. Their appointments round out the Division's experienced group of Mediators, begin to address the need for orderly succession within the Mediation Division, and better equip the Division to provide preventive mediation services.

In respect to that last point, the Board's Mediation Division remains on the cutting edge of designing and implementing innovative services to meet the needs of the labour relations community. One example of the Division's proactive approach to labour relations in 2010 was the development of a "Mediation Process" workshop. The workshop was developed in consultation with the community. It is intended to foster the development of problem solving skills in a cooperative environment. In the workshop, equal numbers of labour and management representatives share perspectives and approaches to the resolution of labour relations issues. Through the process of doing so, they build understanding and relationships, which can be key to future settlements and overall moving our practice of labour relations to a more cooperative and problem solving focus.

A further innovative initiative of the Mediation Division was a series of workshops designed in consultation with an employer and union where the first language of the bargaining unit was Punjabi. The workshops, which were conducted in English and Punjabi, allowed greater participation of those involved and ultimately greater understanding of the complexities of conflict across cultures.

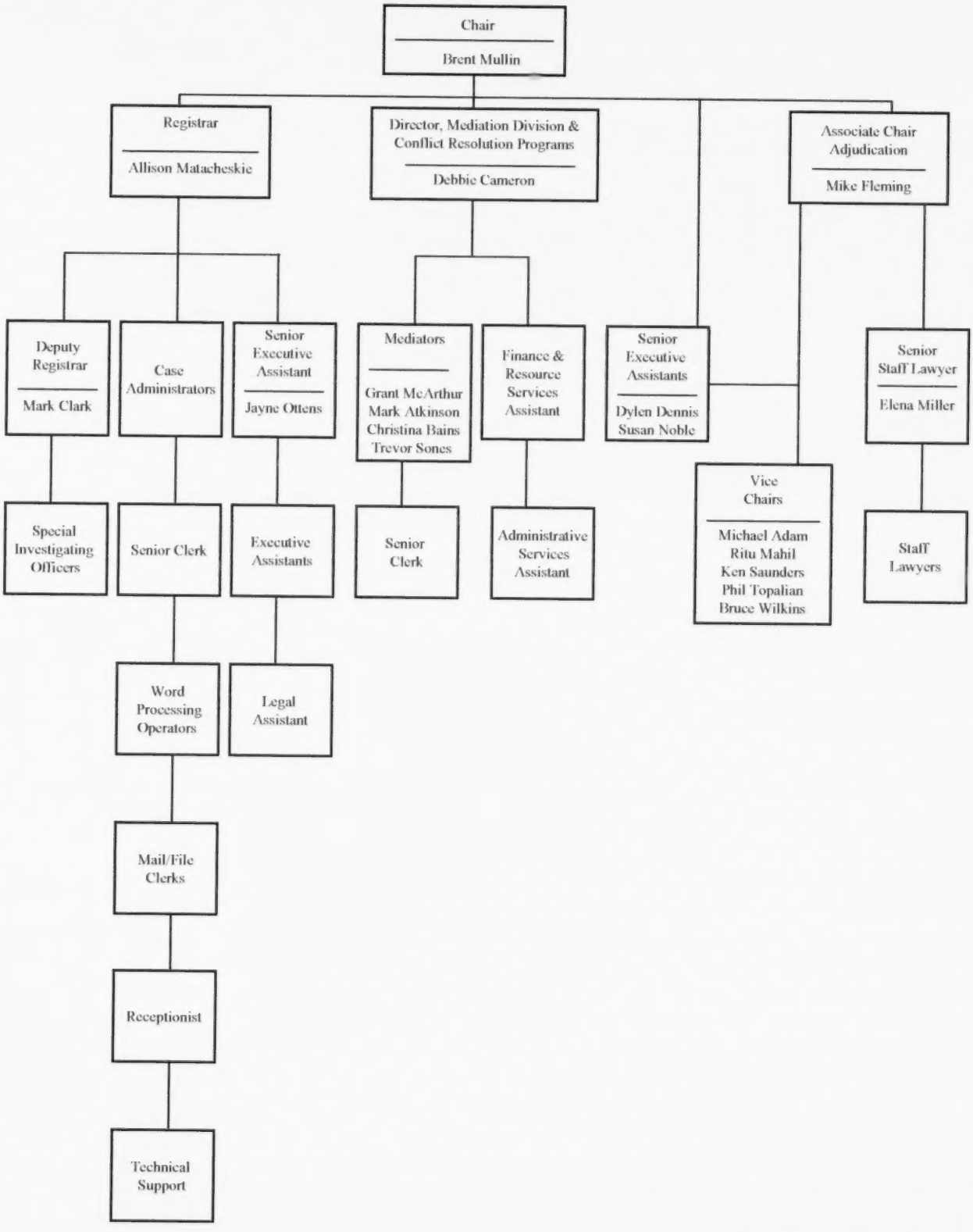
In a different, but again very productive, context, the Board's Mediators continue to work with the labour relations community to design and implement fast track grievance resolution services. These services are in response to the growing demand for informal and cost efficient problem solving in labour relations. In these grievance settlement discussions, the Board's Mediators provide the parties with approaches and solutions that often prevent issues from later surfacing in the collective bargaining negotiations between the parties.

The Board's Mediators also assist with labour-management joint consultation committees under Section 53 of the Code and with the critical designation of essential services in public sector conflicts under Section 72 of the Code.

Finally, keeping pace with the opportunities technology can provide, the Board's Mediation Division is in the development stage of improving the Board's web site capability to better meet the needs of the community. Enhancements will include user friendly interface and informational videos.

All of this is valuable work in the public interest of British Columbia and I thank the Mediation Division for it.

Brent Mullin
Chair


Chair
Brent Mullin
Registrar
Allison Matacheskie
Director, Mediation Division & Conflict Resolution Programs
Debbie Cameron
Associate Chair Adjudication
Mike Fleming
Deputy Registrar
Mark Clark
Case Administrators
Senior Executive Assistant
Jayne Ottens
Mediators
Grant McArthur
Mark Atkinson
Christina Bains
Trevor Sones
Finance & Resource Services Assistant
Senior Executive Assistants
Dylen Dennis
Susan Noble
Senior Staff Lawyer
Elena Miller
Special Investigating Officers
Senior Clerk
Executive Assistants
Senior Clerk
Administrative Services Assistant
Vice Chairs
Michael Adam
Ritu Mahil
Ken Saunders
Phil Topalian
Bruce Wilkins
Staff Lawyers
Word Processing Operators
Legal Assistant
Mail/File Clerks
Receptionist
Technical Support

I. THE BOARD

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with responsibility for labour relations matters under several other statutes.

In carrying out its mandate, the Board must have regard to the manner in which it performs its duties under the Code. These are set out in Section 2:

2. The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that
(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,
(b) fosters the employment of workers in economically viable businesses,
(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,
(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,
(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,
(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,
(g) ensures that the public interest is protected during labour disputes, and
(h) encourages the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115(1) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. The Chair designates one of the Vice Chairs to act as Associate Chair, Adjudication, one to act as Associate Chair, Mediation and one to act as the Registrar. The Chair, along with the Associate Chair, establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice Chair(s), and members in accordance with Section 117(5) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chair of Adjudication, Associate Chair of Mediation, and the Registrar report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides at proceedings of the Board and on all panels of which the Chair is a member.

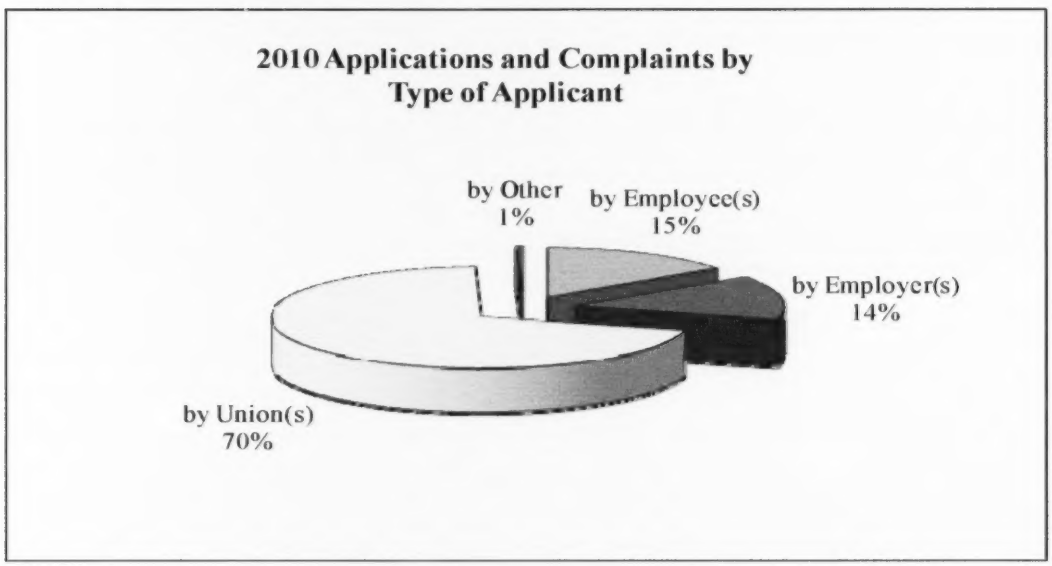
C. REGISTRY

Every application received by the Board is processed through the Registrar's office. Administration and progress of each case is overseen by the Registry until the matter is finally disposed of. Three case administrators are responsible for initiation of applications and the conduct of files.

Processing of all applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

Legislated time frames, combined with established Board policies and procedures, result in approximately 55 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints require commencement of a hearing within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, Case Administrators are responsible for completing all necessary procedures before files are forwarded to Adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies.



Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their caseload involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 9 of the statistical tables, approximately 69 percent of unfair labour practice complaints and Part 5 complaints referred to SIO's are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers (IROs) of the Employment Standards Branch of the Ministry of Labour, Citizens' Services and Open Government. For example, every application for certification or decertification requires a report by an IRO. Such reports are public, with only names and numbers remaining confidential to the Board.

Both SIOs and IROs also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a wide variety of issues.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them.

In accordance with Section 122(3) of the Code, the Board appointed its first Information Officer, effective February 1, 1994. The Information Officer's responsibilities to date have encompassed two main areas: handling incoming inquiry calls and preparing written material for the public and the labour relations community.

The Information Officer deals with approximately 4000 phone calls and email enquiries per year from employers, unions,

individual employees and media representatives.

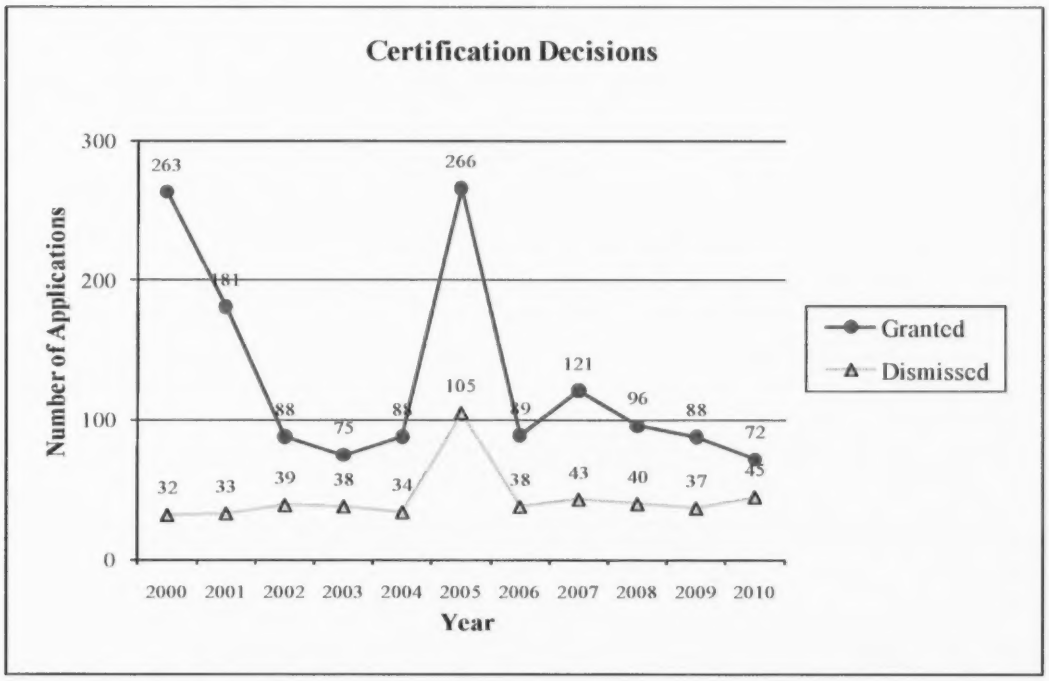
The Board's publications include the *Employer's Guide to the Union Certification Process*. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The same day the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process*, has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.

Another publication prepared by the Information Officer, the Board's Practice Manual, has been in use since April, 1995.

The Board's website was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The website address is www.lrb.bc.ca

The Board has also prepared a "Section 12 Guide" explaining the Board's approach to Section 12 complaints. It is available on our website under "Information Bulletins" or upon request in written form.



D. COLLECTIVE AGREEMENT ARBITRATION BUREAU

Effective July 5, 2002, and pursuant to the *Labour Relations Code Amendment Act, 2002*, the Collective Agreement Arbitration Bureau was brought under the administration of the Labour Relations Board. Pursuant to Section 83(1) of the Code, the Chair designated the Board's Deputy Registrar, Mark Clark, as Director of the Bureau.

The primary function of the Bureau is to appoint arbitrators where one of the parties seeks an expedited form of arbitration, where the parties seek consensual mediation/arbitration, or where there is a failure to appoint or constitute an arbitration board by one of the parties. In addition, the Bureau also appoints settlement officers to assist the parties in resolving grievances filed under collective agreements. The Labour Relations Board offers the services of its Special Investigating Officers and Mediators as settlement officers to assist the parties in resolving the grievances prior to an arbitrator's appointment by the Bureau.

Since July 5, 2002, applications filed with the Bureau for the appointment of arbitrators and/or settlement officers are processed through the Registry of the Labour Relations Board. The Registry's Case Administrators are generally responsible for the day-to-day administrative processing of the applications, with the Director responsible for the selection/appointment of the arbitrator in each case.

The Bureau, through its Director, must also maintain a register of arbitrators. A Joint Advisory Committee, as appointed by the Minister, must advise the Director on the training and education of arbitrators and settlement officers, research and publication of information about arbitrations, and establishment and maintenance of a register of arbitrators.

The Joint Advisory Committee comprises two representatives of unions, two representatives of employers and two representatives of arbitrators, along with the Director who is the chair of the committee.

E. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the Code. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker and essential services provisions; and applications for reconsideration of Board decisions.

On average, 758 cases per year were adjudicated over the past 6 years. A comparison of cases assigned for adjudication and adjudicated for the past several years is set out in the accompanying table. In 2010, the Adjudication Division published 227 decisions. Summaries of some of the

noteworthy decisions can be found in Section III of this Report.

A major portion of the Division's workload continues to be adjudication of expedited applications (including certifications, unfair labour practice and Part 5 applications). During 2010, expedited applications comprised about 68 percent of cases received in the Board's major adjudication areas.

As of December 31, 2010, the Board had 5 Vice Chairs and 3 Staff Lawyers.

	2002	2003*	2004*	2005*	2006*	2007*	2008*	2009*	2010
Cases Assigned for Adjudication	860	890	1,091	823	735	815	638	679	634
Cases Adjudicated	957	889	922	1,006	781	782	664	672	642
Cases Outstanding at Year End	239	240	409	226	180	213	187	194	186

* Figures adjusted after publication of *LRB Annual Report* for noted year(s).

F. MEDIATION DIVISION

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship and collective bargaining information. The head of the Mediation Division is the Director of Mediation and Conflict Resolution Services.

Information about the services available from the Mediation Division can be obtained via the Board's website (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the Code administered by the Mediation Division. It also features a recently developed video which explains mediation services through a series of brief interviews with each of the mediators.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in an effort to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

The majority of mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under Section 55.

Section 55 is specific to first collective agreements and confers on the mediator greater responsibility for mediation outcomes within tightly prescribed time frames. Access to this provision can only be gained if the trade union has taken a

strike vote and a majority of the employees have voted in favour of a strike. A study completed in May of 2010 reviewed the practical application of this provision. *First Contract Arbitration: Evidence from British Columbia, Canada of the Significance of Mediator's Non-Binding Recommendations* by Melanie Vipond in completion of her thesis for Stanford Law School recommends the BC Approach as a basis to inform US policy debate.

In her summary of the BC experience, Ms. Vipond states: "All of the main parties (unions, employers, mediators and arbitrators) of the B.C. first contract model agree on the following: (1) the ability of mediators to issue recommendations is "a good thing," preferable to other first contract systems, [158] because it facilitates the mediation process and forces parties to budge from uncompromising positions; [159] (2) perceptually, it can be easier for unions and employers to obtain a voluntary first collective agreement [160] if a neutral, third party (i.e., a mediator or arbitrator) authors the recommended terms of a first collective agreement especially in mediation in which the parties take on a lesser adversarial role; [161] (3) resolving a first collective agreement voluntarily (through mediation) is preferable and is more likely to result in a better, longer bargaining relationship; and (4) arbitrators commonly engage in the process of mediation-arbitration to resolve first collective bargaining disputes and have found it to be successful in resolving all or some issues in dispute." page 62

Board mediators were appointed to 118 cases under Section 74 and 6 cases under Section 55. Mediators were also involved in 28 cases carried over from previous years.

Essential Services (Section 72)

The mediation of essential services in certain disputes involving the health, safety or welfare of the residents of British Columbia is also part of the mandate of the Mediation Division.

Conflict Management

The Mediation Division provides conflict management initiatives, not only in keeping with its mandate under the Code, but also with a view to designing individualized and relevant programs. The focus of the programs places greater emphasis on the analysis of conflict and its ongoing management in the workplace.

At the joint request of employers and trade unions, the Mediation Division consults with the parties in an effort to understand the nature and role of conflict in the parties' organization. Current methods of dispute resolution are also examined in the context of the organizational culture within which they operate. The Mediation Division works with the stakeholders to design and implement conflict management processes that focus on systemic change.

Guidelines used in the design process include: stakeholder participation, the adoption of preventative methods of alternative dispute resolution including training in interest based problem solving, the use of interest based and rights based processes, and promotion of dispute resolution throughout all levels of the organization. Openness and broad-based participation are encouraged and emphasis is also placed on the importance of feedback and continuous self-evaluation.

Relationship Enhancement

One of the forums for exploring conflict and designing conflict management systems has been the Relationship Enhancement Program "REP". The program which was originally designed as a two-day exploratory retreat has been refocused to place greater emphasis on skills in effective communication and interest based problem solving.

In a preliminary assessment, the Mediation Division determines if the parties are committed to make the changes needed in their relationship to foster a more positive climate in the workplace. The assessment is conducted through various forms of information gathering, including confidential interviews, meetings, surveys, and/or focus group discussions. Following the initial assessment, a representative sampling of the stakeholders attends a two or three-day session conducted away from the workplace. Two mediators normally facilitate the session. Participants receive skills training, identify conflicts affecting their relationship, and collectively develop strategies to address and manage the identified conflicts. These strategies take the form of written action plans with specific goals, time frames for achieving the goals and assignment of specific individuals who are responsible for ensuring that action plans are carried out.

In late 2010 the Mediation Division, in cooperation with Dr. Tom Knight at the UBC Sauder School of Business, surveyed previous REP participants. The purpose of the survey being to assess the effectiveness of the Program in building and supporting sustained improvement in Labour Management relationships. Initial feedback revealed the following:

1. The Parties

- 9 Respondents (5 paired + 4 single)
- Mainly Public – Municipal, Health
- 12 – 900+ Employees
- Leader Turnover 2 – 5 in 10 Years
- Mostly Long Term Agreements – 12-50 years
- 5 Experienced 1-2 Job Actions
- Grievance/Arbitration Activity Either Low or Fairly High

2. Initiation of the REP:

- Relationships Range from "Adversarial" to "Rock-Bottom Bad"
- Many "Personality Conflicts"
- Frustration with Grievance Process
- Precipitated by a triggering event

- 3 Cases "Mutual Interest" in Program, Predominantly Union
- Sometimes Outcome of Bargaining

3. Evaluation of Process:

- Structure of Process Viewed as Very Effective in Surfacing Issues
- Facilitators Get High Marks
- Desire for More Opportunities to Apply and Practice Skills in Their Environment and on Their Issues
- Parties Generally Able to Set Clear Goals, But May Need More Time for This

4. Impact of REP Program:

- Mostly "Middling to Positive" Impact on Relationship, Interactions
- Grievances Decline in 3, Increase in 1, Same in Rest
- Neutral to Low Adoption of Skills & Practices
- Neutral to Low Skill Retention, Impact on Mutual Respect
- Too Early to See Bargaining Impact

5. Revision & Development of the REP:

- Key: Clear Desire for Follow-Up, Refreshers & Reinforcement
- Also indicated in Lagging Results on Impact & Process
- Also Need to Explain Program for Potential & New Participants More Effectively

6. Future Application of Evaluation Research:

- Better Understand Where Need for REP Arises
- Understand & Anticipate Better Specific Issues of Parties in REP
- Continue Refinement of REP Process & Facilitation
- Seek to Demonstrate Value of Participation in REP & Limitations

Based on these findings greater emphasis on follow up will feature prominently in future programming.

Labour Management Consultation Committees

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. Using some of the same conflict management techniques described above, the Mediation Division offers assistance to employers and unions in meeting this obligation. Assistance is offered for the establishment of new committees and/or improvement in the effectiveness of existing committees. These sessions are usually scheduled for half a day to a maximum of a day, depending on the needs of the parties.

Mediation Process Workshop

In the summer of 2010, the Mediation Division engaged in broad consultations with the Labour Relations Community for the purpose of exploring avenues to enhance problem solving capacity. This initiative resulted in the design and development of a three-day workshop curriculum on mediation process.

The workshop's foundation is based on a collaborative learning model featuring multiple perspectives on subject material. The first session was held during the week of January 11, 2011. Equal numbers of management and union representatives were registered, with further sessions anticipated, given demand.

The curriculum addresses the following learning outcomes:

- Enhanced problem solving by understanding the role of perception in an individual's sense of procedural justice.

- Identification of skills and strategies needed to develop and model to improve trust and build rapport.
- Identification of greater opportunities for settlement using problem solving strategies and methods.
- Understanding how cognitive biases and group dynamics impede opportunities for settlement.
- Greater confidence in managing emotionally charged conflicts by developing the skills and attributes needed to facilitate productive settlement discussions.
- Effective preparation for and utilization of the mediation process.

G. ADMINISTRATION

Information Systems

The principal computer applications contained on the in-house computers run in the following areas: case management, word processing, office automation and end user computing, statistical collection and distribution, and computer aided research.

Finance and Administration

The Finance and Administration Department is responsible for human resource matters including recruitment, payroll and benefits administration, financial management including budget, accounts payable/accounts receivable and is also responsible for all security and facilities matters.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, word processors, executive assistants, and administrative support personnel.

II. BOARD MEMBERS AND MEDIATORS

As of December 31, 2010, the Board consisted of the following members:

EXECUTIVE

BRENT MULLIN, *Chair*

Brent Mullin's education includes a B.A. from the University of Victoria, an M.A. from Queen's University at Kingston, Ontario, and an LL.B. from the University of British Columbia. From 1983 to 1992 he practised labour relations, employment and human rights law in Vancouver, British Columbia at Russell & DuMoulin (now Fasken Martineau). From 1992 to 1998 he served as a Vice Chair at the British Columbia Labour Relations Board, then returned to the practice of labour law at Fasken Martineau DuMoulin. In January 2002, he was appointed Chair of the British Columbia Labour Relations Board and in August 2002, he was also appointed Chair of the Employment Standards Tribunal.

MICHAEL FLEMING, *Associate Chair (Adjudication)*

Michael Fleming obtained a B.A. from Simon Fraser University in 1978 and worked with the Ministry of Human Resources as a social worker until 1983. He then worked for the Canadian Farmworkers Union appearing before a number of tribunals and courts on behalf of the members. He received an LL.B. in 1988 from the University of British Columbia and then articled and practised law with the firm of Rush, Crane & Guenther until 1990. From 1990 to his appointment to the Labour Relations Board as Vice Chair in 1997, he was employed by the BCGEU holding several positions and appearing before various tribunals and arbitrators on behalf of the Union and its members. He was appointed as the Associate Chair in the fall of 2002.

ALLISON MATACHESKIE, *Vice Chair and Registrar*

Allison Matacheskie received her LL.B from the University of Ottawa in 1989. She moved to British Columbia and practiced labour law exclusively representing unions with the exception of two periods when she practiced criminal law. In 1992 she was crown counsel prosecuting at the provincial court level and in 2002, she again worked for the Ministry of Attorney General as a special assignment prosecutor. In 2004, she was appointed as a Vice Chair and since February 2010, she has been the Registrar of the Labour Relations Board.

VICE CHAIRS

MICHAEL ADAM, *Vice Chair*

Michael Adam received a B.Comm (Honours) (Industrial Relations) from U.B.C. in 1989. He also holds a Conflict Resolution Certificate from the Justice Institute of B.C. and is a Certified Human Resources Professional. After working as a Research Analyst for the Hospital Employees' Union from 1989 to 1991, he returned to U.B.C. and completed his LL.B. in 1994. Following law school, he clerked at the B.C. Supreme Court and later articled at Bolton and Muldoon before being called to the Bar in March 1996. From 1996 to 1999, he worked as an associate at the municipal law firm of Lidstone Young Anderson, handling labour and employment matters for local governments. From 1999 to 2001, he worked at Forest Industrial Relations Ltd., providing contract administration, training and labour arbitration services to FIR members. In 2001, he joined Alexander Holburn Beaudin & Lang as part of the Labour and Employment Practice Group, becoming a Partner in 2003. In 2005, he joined Weyerhaeuser as a Labour Relations Director, with responsibility for negotiating and administering labour agreements in timberlands, wood products, containerboard packaging, pulp and paper and distribution throughout Washington, Oregon, California and Hawaii. Mike was appointed as a Vice Chair of the Labour Relations Board in May 2007.

RITU MAHIL, *Vice Chair*

Ritu Mahil received BA, LL.B., and M.P.A. degrees from the University of Victoria. Ritu worked at the Labour Relations Board in 2000 on a special project regarding the Duty of Fair Representation complaint process. She summered at Victory Square Law Office and articled at Fiorillo Glavin Gordon, a labour law firm exclusively representing unions. She was called to the Bar in 2002. Ritu has been an instructor with the Labour Studies Programme at Capilano College where she instructed union stewards, business agents, and executive officers in various labour law and labour relations matters. She has also presented at a number of workshops through Lancaster House. Ritu was in-house legal counsel to the Health Sciences Association from 2002 to May 2007. Ritu was appointed as a Vice Chair in May 2007.

KEN SAUNDERS, *Vice Chair*

Ken Saunders obtained a Bachelor of Arts degree from Simon Fraser University in 1987 and a Bachelor of Law degree from the University of British Columbia in 1990. Following graduation, he acted as Assistant Director of the Hospitality Industrial Relations Employers' Association where he was responsible for grievance arbitration and Labour Relations Board matters. In 1996, he joined the Community Social Services Employers' Association until his appointment as a Vice Chair in October 2000. At CSSEA he headed the Dispute Resolution and Research Services Department and acted on behalf of member agencies in Labour Relations Board, Employment Standards, Human Rights and collective agreement arbitration proceedings. On October 11, 2000, Ken was appointed as a Vice Chair of the Labour Relations Board.

PHILIP TOPALIAN, *Vice Chair*

Philip Topalian received a law degree from the University of British Columbia in 1977 and practiced law from 1978 to 1980. Philip was appointed to the position of Labour Relations Officer in the Provincial Government in 1989, holding the position of Senior Labour Relations Officer with the Public Service Association since 1995. Philip has extensive experience in negotiations as well as appearing as counsel before a variety of employment related tribunals. He was appointed as a Vice Chair in October 2005.

BRUCE WILKINS, *Vice Chair*

Bruce Wilkins was introduced to labour relations while studying at the University of Toronto for his B.A. in philosophy. While attending the University of Toronto and working at the library, he became a steward and then the Chief Steward of CUPE Local 1230. After obtaining his B.A. he went to law school and graduated from Queens University Law School in 1997. He articled at Victory Square Law Office, a firm which exclusively represents unions, and was called to the Bar in 1998. He worked for two years as Crown Counsel in traffic and criminal prosecutions. He returned to the labour relations community as in-house counsel for the Health Sciences Association of British Columbia, representing the union in arbitrations, Labour Relations Board proceedings and professional discipline hearings. He was appointed as a Vice Chair in May 2007.

MEDIATORS

DEBBIE M.L. CAMERON, *Director, Mediation Division and Conflict Resolution Programs*

Debbie Cameron is the Director of Mediation and Conflict Resolution Programs at the BC Labour Relations Board. Ms. Cameron started at the LRB in 1994 as a Mediator, and in 2007, became the Director of Conflict Resolution Programs. Ms. Cameron assumed responsibility for the Mediation Division on February 1, 2010. Prior to the LRB, Ms Cameron was the Coordinator of Hospitals for the B.C. Nurses' Union responsible for collective agreement negotiation and administration covering approximately 17,000 nurses in BC. Ms. Cameron has a Certificate in Conflict Resolution from the Justice Institute of British Columbia, a Certificate in Intercultural Studies from the University of British Columbia, an M.A. in Conflict Analysis and Management from Royal Roads University, and a Provincial Instructor Diploma from Vancouver Community College.

MARK ATKINSON, *Mediator*

Mark Atkinson was a staff representative with the Hospital Employees' Union from 1981 to 1995 when he joined the Labour Relations Board as a Mediator. In 2004, Mark joined Federal Mediation and Conciliation Services as a Mediator. Mark was also employed by the Interior Health Authority as the Associate Director of Human Resources prior to going into a private mediation/arbitration practice for three years. Mark rejoined the Board in January 2008.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Grant joined B.C. Rail in 1986, where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

CHRISTINA BAINS, *Mediator*

Christina Bains is a Mediator with the British Columbia Labour Relations Board. Christina has a B.A. in Sociology from Simon Fraser University and a Human Resources Post-Diploma from the British Columbia Institute of Technology. Christina spent several years working in Employee Relations for B.C. Ferries providing direct support to approximately 1,000 employees, facilitating workshops as well as developing outreach initiatives to build relationships with various public and private sector groups on Vancouver Island and the mainland to support province wide recruitment. Christina has also spent some time with the British Columbia Post Secondary Employers' Association, the Health Employers Association of British Columbia and

the British Columbia Government Employees' Union where she was involved in several public sector and private sector negotiations.

TREVOR SONES, *Mediator*

Trevor Sones is a Mediator with the B.C. Labour Relations Board. Trevor has an Honours B.A. in Criminology with a concentration in Law from Carleton University, in addition to an M.A. in Dispute Resolution from the University of Victoria. While specializing in the field of Alternative Dispute Resolution, Trevor has published a book and a peer-reviewed journal article on the role of conflict and conflict resolution processes.

III. HIGHLIGHTS OF BOARD DECISIONS

In 2010, the Adjudication Division published 227 numbered decisions. The following are summaries of some noteworthy decisions issued during the year. These summaries are provided for interest only, and they do not constitute legal or authoritative interpretations of the decisions in question. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca).

A.C.M.C.J. Holdings Ltd., BCLRB No. B9/2010 - The employers applied under ss. 43(6) and 142 of the Code to be removed from HEABC's bargaining accreditation. An Order in Council was subsequently deposited striking out the employers from the definition of "public sector employer". The panel found there were strong policy reasons for allowing the variance requested by the employers. For example, the legislature did not intend to fix the membership of HEABC and the employer constituency of the health sector in perpetuity. As well, it would be inappropriate to compel HEABC to bargain on behalf of employers who are neither "public sector employers" as defined in the PSEA nor members of HEABC. Similarly, it would not be appropriate to compel the employers to be a part of the accreditation when they are no longer members of HEABC and no longer defined as "public sector employers". Finally, the unions' suggestion that if the employers are allowed to leave the accreditation, working and care conditions would deteriorate was found to be speculative in nature. The panel also dismissed the unions' request that the applications be dismissed as untimely, noting this case involved extraordinary factual circumstances and such an approach would be inconsistent with s. 2(c) of the Code. The employers' applications were granted.

Sun Wave Forest Products Ltd. and The City of Prince Rupert, BCLRB No. B15/2010 (Leave for Reconsideration denied, BCLRB No. B37/2010) - The panel found that organizing the security, maintenance and environmental monitoring of a mill was properly characterized as an activity, but not as a business for successorship purposes.

Sidhu & Sons Nursery Ltd., BCLRB No. B26/2010 (Leave for Reconsideration denied, BCLRB No. B64/2010) - The union applied for a bargaining unit of all Seasonal Agricultural Workers Program (SAWP) employees employed by the employer. The panel noted that SAWP workers, given their exceptional vulnerability, need access to collective bargaining. However, the panel found in the absence of conditions limiting the scope of collective bargaining, no rational and defensible line could be drawn around a bargaining unit of SAWP workers that would be consistent with ensuring viable collective bargaining. Limiting the scope of collective bargaining by attaching conditions to the classification, would largely eliminate the concerns associated with functional integration or cutting across classification lines. The panel held that if the union receives majority support, the union can seek to obtain collective agreement rights and protection for SAWP employees in respect of accommodation, rates of pay, benefits, access to medical care, transportation, repatriation, recall and name request, health and safety, discipline and discharge, and the like, consistent with their unique interests. However, work jurisdiction-related provisions would be beyond the scope of collective bargaining and grievance arbitration.

Canadian Affiliates of the Alliance of Motion Picture and Television Producers, BCLRB No. B47/2010 - The panel provided several orders and directions in order to resolve the issues raised by the s. 41 process. They included the establishment of an association to meet to enhance communication, consultation and cooperation among the three unions and

between the unions and the producers; requirements for future rounds of collective bargaining; a requirement to work with the Board to develop a test for determining when a valid voluntary collective agreement is in place and the terms of the presumptive collective agreement; the establishment of an industry working group to explore, study and develop recommendations for more cooperative labour relations approaches in the B.C. industry; and the formation of a sub-committee of the working group to examine and make recommendations regarding how to resolve concerns relating to collective agreement administration.

William Auyeung, BCLRB No. B49/2010 (Leave for Reconsideration of BCLRB No. B126/2009) (petition for judicial review dismissed, 2011 BCSC 220, notice of appeal filed) - The union applied for reconsideration of the original panel's decision granting the complainants' s. 12 complaint. The original panel found the union breached the prohibition against arbitrary representation in s. 12 when it relinquished the complainants' rights to group termination pay under s. 64 of the *Employment Standards Act* by way of a settlement agreement with Interfor. The union did not intend to relinquish the complainants' s. 64 rights, but the settlement agreement was found to have that effect by an arbitrator. The union offered no explanation as to how this mistake occurred. The reconsideration panel found the magnitude of the employee interests at stake in a group termination is a matter that would be expected to be treated by unions with more care and concern. The reconsideration panel found no inconsistency with Code principles in the original panel's approach on the facts of this case and as such, leave for reconsideration was denied.

International Paper Industries Ltd., BCLRB No. B95/2010 - The union filed an unfair labour practice complaint alleging the employer stacked the voters list. The panel found the employer interfered with the formation, selection or administration of the union contrary to s. 6(1) of the Code by providing an inaccurate list of employees to the industrial relations officer. The list contained at least six individuals whose names should not have been on the list because they had been terminated before the union made its application for certification. The employer did not provide an explanation as to why the list was inaccurate. The panel found the inaccuracy contributed to the time and expense it took to establish whether the union had enough support for its certification application. The panel declined to order a remedial certification or costs, finding that even if all of the union's outstanding challenges had been sustained, it would still have lacked the requisite support for its application for certification.

Lantic Inc., BCLRB No. B102/2010 (Reconsideration of BCLRB No. B55/2010) (petition for judicial review heard, judgment reserved) - The reconsideration panel found the supervisors' decisions whether to coach or write-up employees are the basic decisions upon which it is determined whether or not there will be discipline. Those determinations are judgment calls which align the interests of the supervisors with management. As such, the reconsideration panel found the supervisors were in a potential conflict of interest in terms of being in a bargaining unit and were not "employees" under the Code.

Health Employers Association of British Columbia, BCLRB No. B107/2010 (Leave for Reconsideration denied, BCLRB No. B148/2010) - The time bar in s. 19(2) runs from the date of a raid application, not the date of the decision dismissing the raid application.

Roger Hubner, BCLRB No. B109/2010 - The complainants sought a determination that the union contravened ss. 5(1)(d) and 8 of the Code when it threatened to bring legal proceedings to remedy torts allegedly committed by the complainants. The panel found no contravention of s. 5 of the Code because the threats of legal proceedings related to alleged torts, not the fact that the complainants invoked or were otherwise involved in a proceeding under the Code. The panel found no breach of s. 8 of the Code,

because the complainants failed to show that the alleged breach of the freedom in s. 8 involved a contravention of another Code provision.

Barbara Kutzner, BCLRB No. B114/2010 (Leave for Reconsideration of BCLRB Nos. B174/2007, B49/2009, and B25/2010) (petition for judicial review filed) - In the original decision, the original panel stated that while a declaration regarding the validity of a purported collective agreement is presumptively effective as of the date of publication, the Board has the authority to make the declaration effective as of another date based on the circumstances of a particular case. The reconsideration panel held the original panel's approach was appropriate in terms of the matters at issue and consistent with the principles of the Code and the law and policy of the Board.

Pharmx Rexall Drug Stores (B.C.) Ltd. (Houston Rexall Drugs), BCLRB No. B117/2010 (Reconsideration of BCLRB No. B53/2010) - The employer applied under s. 141 of the Code for leave and reconsideration of the original decision which granted the union's variance application. The variance included the employees of the employer's drug store in Abbotsford with the existing certification the union holds to represent the employees of the employer's drug store in Houston, B.C. The reconsideration panel found the new evidence relating to the Houston store closure was brought forward in a timely manner and had a material and determinative effect on the original decision. The reconsideration panel found that the variance was inappropriate and a stand-alone certification was appropriate in the circumstances. This would allow the parties to bargain with a focus on creating success at the Abbotsford store, rather than negotiating over the applicability of the collective agreement terms from the failed Houston operation.

Health Employers Association of British Columbia (Fraser Health Authority), BCLRB No. B132/2010 (Leave for Reconsideration denied, BCLRB No. B155/2010) - The BCNU applied to be certified to represent the emergency room attendants at certain hospitals. The HEU objected to the certification on the ground that the units sought were not appropriate for bargaining because they would result in an unacceptable proliferation of bargaining agents. The panel found the Board's reasoning in *Certain Biomeds* applicable in the circumstances of this case. While the IUOE represents a small group of power engineers, the employees at the hospitals are otherwise represented by the HEU. If BCNU's applications for certification were granted, the employer would contact HEU for day-to-day matters for most employees and the BCNU for the emergency room attendants. As well, having multiple union representatives in one workplace administering the same collective agreement might lead to confusion and introduce industrial instability. The panel found the fact that the emergency room attendants may prefer one bargaining agent over another is an insufficient reason to introduce a new bargaining agent at the hospitals. As such, BCNU's applications for certification were dismissed because the units were not appropriate as they would result in an unacceptable proliferation of bargaining agents at the hospitals.

University of British Columbia, BCLRB No. B138/2010 - The panel adopted the principle for the discovery of documents as set out in the new BC Supreme Court Civil Rules in ordering document production. Namely, the panel stated that all documents that are or have been in the party's possession or control and that could, if available, be used by any party of record to prove or disprove a material fact, should be disclosed.

Best Facilities Services Ltd., BCLRB No. B143/2010 - The union alleged the employer breached ss. 11 and 47 of the Code by not disclosing financial information after having stated that its financial situation prevented it from offering a wage increase as part of the wage reopener. The issue was whether the

employer was making an ability to pay argument that would require it to disclose financial information to substantiate its argument in order to fulfill its duty to bargain in good faith. The panel found the employer had not sought concessions or argued that an increase in wages would jeopardize its economic viability. The employer's statements that "the credit card is maxed out", "we have to hunker down in tough economic times", and "it would be a shame if we can't renew the contract" amounted to posturing in bargaining and did not establish that the employer was making an inability to pay argument. The union's application was dismissed.

Community Social Services Employers' Association, BCLRB No. B145/2010 (Reconsideration of BCLRB No. B111/2010) - The BCGEU and CSSEA applied for reconsideration of the original decision which upheld an umpire's award striking down a memorandum of agreement and rendering certain interpretations of the Articles of Association of the Community Social Services Bargaining Association. The reconsideration panel set aside the original decision and the umpire's award finding that the term "constituent union" in the Articles of Association is any one of the ten unions in the CSSBA.

459966 B.C. Ltd., BCLRB No. B160/2010 (Leave for Reconsideration denied, BCLRB No. B189/2010) - The union alleged the common employer breached s. 62 of the Code by failing to allow the union to tender payment for health and welfare benefits for its members during a lawful strike and denying health and welfare benefits to employees who were terminated during the strike. The panel found that employees are only entitled to have their benefits continued during a strike or lockout to the extent they were otherwise entitled to in the absence of the strike or lockout. In this case the employees were terminated. The panel found the loss of benefit coverage did not occur as a result of participating in a lawful strike or lockout, but as a result of ceasing to be eligible for benefits under the terms of the collective agreement and insurance policy. Accordingly, the employees were not entitled to benefit continuation under s. 62 and the union's application was dismissed.

Construction Labour Relations Association of British Columbia, BCLRB No. B171/2010 (Leave for Reconsideration denied, BCLRB No. B194/2010) - The panel found CLRA did not breach its duty to bargain in good faith when it rejected BCBCBTU's demand for a particular format or protocol in bargaining and presented a viable counter-proposal for collective bargaining. Bargaining format and protocol are elements of bargaining to which the duty to bargain in good faith applies. The panel found what occurred in this case was not bargaining in bad faith, but the exchange of two different positions with respect to bargaining protocol and format.

David Canvin, BCLRB No. B174/2010 (Leave for Reconsideration of BCLRB No. B106/2010) - Reconsideration is not a vehicle for new arguments that could have been made to the original panel. If a party considers a matter important, it must be careful to put its whole case before the original panel that decides it. A similar bar is imposed in the Courts against accused persons who attempt to raise their *Charter* rights for the first time on appeal. While the Board is not bound by the Courts' practice, this is an indication that the Board's requirement – imposed in the context of an administrative tribunal with a duty to decide labour relations matters expeditiously – is not unduly harsh.

Canadian Affiliates of the Alliance of Motion Picture and Television Producers, BCLRB No. B176/2010 - The panel held that in order to constitute a valid voluntary recognition agreement ("VVRA") in the industry, a letter of understanding should be filed with the Board once it is signed for a particular production. The letter must constitute a collective agreement under the Code. One copy of the collective agreement incorporated by the letter must also have been filed with the Board. Where such a letter is filed covering employees of a given production and an

application for certification for those same employees is subsequently filed at the Board, the certification application will be held in abeyance pending an investigation of the validity of the letter. The panel also held that where no VVRA is in place with respect to a particular production and a union applies to be certified by the Board to represent employees working on that production, if the application is granted, the relevant collective agreement for that union applicable to that production would presumptively apply. The effective date of the presumptive collective agreement would be the date of the application for certification.

Lougheed Imports Ltd., BCLRB No. B190/2010 - The union alleged the employer breached the Code when it terminated the employment of two employees in the bargaining unit. The employees were terminated for making disrespectful, damaging and derogatory comments on Facebook and for dishonesty in the subsequent investigation. The union alleged the terminations were motivated by anti-union animus. The employer argued the employees were terminated for proper cause. The panel found the nature of the comments made towards the supervisors and the employer generally were offensive and egregious. The comments were made to other employees and thus were akin to comments made on the shop floor. The panel further found that the fact that the employer allowed the insubordinate conduct to continue for a matter of weeks does not mitigate against a finding of proper cause. The panel found the penalty was not out of proportion with the misconduct and there was proper cause to terminate the employment of the employees.

Maxxam Analytics International Corporation, BCLRB No. B202/2010 (Reconsideration of BCLRB No. B113/2010) - Once it is decided that a certified unit is no longer appropriate, the union must demonstrate through valid membership cards that a majority of employees in the intermingled group are members in good standing in an appropriate group. If the union is able to do so, the Board will certify the union as the bargaining agent for the intermingled group without the necessity of a vote. If less than a majority of employees in the intermingled group are members in good standing, the Board will determine whether the union has shown a level of membership support to justify a vote. A union must show, on the basis of valid evidence of membership in good standing, that it is a viable candidate in a representation vote. The lower end of that threshold lies with membership support at about one-third of the intermingled group.

Construction Labour Relations Association, BCLRB No. B224/2010 - A letter of understanding modifying terms of a collective agreement falls within the definition of "collective agreement" as defined in s. 1 of the Code.

IV. COURT DECISIONS

1. ***United Food and Commercial Workers Union, Local 1518 v. 563769 B.C. Ltd.,*** 2010 BCSC 17 - The chambers judge dismissed Local 1518's application for judicial review of the Board's s. 99 and s. 141 decisions. The Union argued the standard of review on judicial review was correctness because the issue before the Board was jurisdictional. The chambers judge rejected that argument and found that a deferential standard must be applied.

2. ***Langston v. Teamsters Local 155,*** 2010 BCSC 534 - The chambers judge dismissed Gordon Langston's petition for judicial review of the Board's decisions. Among other things, Langston argued the Board had incorrectly applied the doctrine of *res judicata* in dismissing his s. 12 application. The chambers judge found the standard of review on this issue was patent unreasonableness and held there was nothing unreasonable in the Board's analysis of this issue. The chambers judge also dismissed Langston's natural justice and *Charter* arguments.

3. ***Ted Saby v. Local #1, Canadian Iron, Steel and Industrial Workers' Union and the British Columbia Labour Relations Board*** (April 21, 2010), unreported, Vancouver Registry, S097950 (B.C.S.C.) - The petitioner alleged the Board denied him natural justice by failing to give reasons for denying his request for costs. The chambers judge dismissed the petition, finding the Board was not required to give reasons dismissing the application for costs in the particular circumstances of the case. Those circumstances included the brevity of the submission on costs, the fact that the costs issue was of subsidiary importance to the parties, and the fact that the Board has adopted a well-known approach in relation to costs that the petitioner had not challenged.

4. ***Grant v. British Columbia Labour Relations Board,*** 2010 BCCA 246 - The Court of Appeal dismissed Kerry Grant's appeal of the chambers judge's decision to dismiss Grant's judicial review petition challenging the Board's dismissal of his s. 12 complaint against CUPE 1004 / City of Vancouver. The court found there was no error in the approach adopted by the chambers judge.

5. ***Langston v. Teamsters Local 155,*** 2010 BCCA 310 - The Court of Appeal chambers judge dismissed Gordon Langston's application for indigent status on the basis that he could see no prospect of success in the appeal and because of insufficient proof of indigency. The chambers judge ordered Langston to post security for costs and stayed the appeal pending the provision of security.

6. ***Construction & Specialized Workers' Union, Local 1611 v. SELI Canada Inc.,*** 2010 BCCA 335 - The employer appealed the decision of a B.C. Supreme Court chambers judge who had granted the union's judicial review petition and set aside the Board's decision on the basis of bias. The Court of Appeal held that there was no bias and allowed the appeal. The chambers judge had found bias on the basis of two comments made by the original panel. The first was about the applicability of s. 5(2) of the Code. The second was a statement, made in the context of a mootness application, that the union's allegation of fraud by the employer was collateral to the issue of whether the employer violated s. 45 of the Code. The Court of Appeal held that the original panel's statement about s. 5(2) was correct. The chambers judge had either misinterpreted the original panel's comment or the provisions of s. 5(2), and had erred in finding bias. Concerning the second statement, the Court of Appeal held that the original panel was correct in

saying that the issue of fraud was collateral to the s. 45 issue, and this statement also did not demonstrate any bias. The Court also held that in any event, an adjudicator does not demonstrate a reasonable apprehension of bias in imposing reasonable limits on the length of counsel's submissions. The Court held the B.C. Supreme Court decision was incorrect and set it aside.

7. ***Langston v. Teamsters Local 155,*** 2010 BCCA 481 - The Court of Appeal dismissed Gordon Langston's application to vary/discharge the BCCA chambers judge's decision denying him indigent status and staying the appeal until security for costs was posted. The Court of Appeal found no reviewable error in the chambers judge's assessment of Langston's indigency and the merits of the appeal. As well, the Court of Appeal found the chambers judge was correct to order the security for costs.

8. ***NIL/TU,O Child and Family Services Society v. B.C. Government and Service Employees' Union,*** 2010 SCC 45 - The issue before the Court was whether NIL/TU,O's labour relations falls under provincial or federal jurisdiction. NIL/TU,O provides child and welfare services to the children and families of seven First Nations in British Columbia. The Supreme Court of Canada concluded that NIL/TU,O is a provincial undertaking and therefore its labour relations fall under provincial jurisdiction and are subject to the Code.

9. ***Kerry Phillip Grant v. British Columbia Labour Relations Board, Canadian Union of Public Employees, Local 1004 (Vancouver) Civic Employees Union and Board of Parks and Recreation (City of Vancouver),*** [2010] S.C.C.A. No. 250 - The Supreme Court of Canada dismissed Kerry Grant's application for leave to appeal to the Supreme Court of Canada. In accordance with its usual practice on denying leave, no reasons were given.

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The following tables provide an analysis of the applications filed and disposed of in 2010. In some cases, statistics from 2009 and other years are provided for comparative purposes.

As of 2005 Table 1 of the *LRB Annual Report* includes applications and complaints "Filed Previous" and "Remainder Active". These figures help provide an overview of the active or current caseload at the Labour Relations Board.

Statistical Tables Definitions:

- **Application / Complaint**: a section or subsection of the Labour Relations Code. A 'case' may be comprised of more than one application or complaint (section);
- **Filed in Previous Year(s)**: count of applications / complaints received sometime prior to the report period and not yet disposed of at January 1 of the report period;
- **Filed in Current Year**: count of applications / complaints received in the report period;
- **Disposed of - Current**: count of applications / complaints with a final disposition in the report period (includes applications / complaints Not Proceeded With, Withdrawn, Settled, Granted, Dismissed and Other);
- **Open at Year End**: count of applications / complaints received sometime during or prior to the report period and open (not yet disposed of) at the end of the report period. These applications / complaints may be counted as Filed in Current Year or Filed in Previous Year(s), as applicable (same as column heading for 2005-2007 reports: Remainder Active).

A number of other changes have been made during past years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for reference (in date order with most recent appearing first).

Requests for Appointment of a Facilitator

Applications to appoint a Facilitator under Section 53 are counted as applications for the first time in the 2008 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications have been processed by the Board/Council prior to 2008 but have not appeared in the Annual Report Tables until now.

Changes in Report Tables

Tables available in previous years regarding vote information for representation applications, details of Part 5 applications, and details of Mediation Officer appointments were taken out of the Annual Report in 2004. Certification cancellation information (s.33(2)) was added to tables 1A, 1B, 2 and 2A as of 2004. Other information previously included in Table 1 footnotes has been moved to related tables for ease of reference and readability.

Applications for Collective Agreement Arbitration

The Labour Relations Board assumed the processing of these applications from the Collective Agreement Arbitration Bureau in mid-2002; however, due to technical and procedural considerations, applications under Sections 86, 87, 104 and 105 ("CAAB" applications) were counted in the Board's statistics only if received on or after January 1, 2003 (i.e., any 'outstanding' CAAB applications at the end of 2002 are not included in the Board's statistics).

Requests for Appointment of a Mediator

Applications to appoint a mediator under Section 74 were counted as applications for the first time in the 2002 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications were processed by the Board/Council prior to 2002 but appeared only in the "Analysis of Mediator Appointments" Table for those years.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 to 1996, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board has decided to revert to the pre-1989 method of counting these complaints. The change affects the statistics published as Sections 2,3 and 4 of the *Industrial Relations Act* and Sections 5,6,7 and 9 of the *Labour Relations Code*. The following table displays the statistics as they were published and as they would have been under the pre-1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss.5,6,7 and 9 of the Labour Relations Code or ss.2,3, and 4 of the Industrial Relations Act)	1995	825	909	26	0	573	192	118	0	449
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	899	831	9	0	586	136	100	0	362
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	748	676	3	0	440	134	99	0	331
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	416	345	0	0	205	108	32	0	176
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	346	370	0	0	241	92	37	0	NP
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	386	388	5	0	220	100	63	0	NP
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	209	177	0	0	96	47	34	0	NP
	1989 (rev)	123	118	0	0	61	36	21	0	

NP --Not Published

Stay Applications

Applications for a Stay of proceedings were counted as applications for the first time in 1993 (see Table 1: "Applications and Complaints Filed and Disposed of"). A footnote has been added to the Miscellaneous category to facilitate comparisons over time. In previous years, these applications were not counted.

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each employee in question if a ruling was made; if the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding

the inclusion or exclusion of employees is counted as one application regardless of the number of employees in question and regardless of whether or not a ruling is made.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989 (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications had been processed by the Board/Council since 1974 but were not registered or counted prior to 1989.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover, for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 is counted as a separate application.

GENERAL NOTES

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled including cases for which the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1: Applications and Complaints Filed and Disposed of in 2010 (including comparative figures for 2009)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Complaints of Unfair Labour Practices												
Complaints Regarding Internal Union Affairs (s.10)	2010	7	15	14	3	0	6	1	4	0	8	0
	2009	5	9	7	2	0	3	0	2	0	7	0
Complaints Regarding Duty to Bargain in Good Faith (s.11)	2010	14	44	45	1	0	27	10	7	0	13	12
	2009	7	32	25	0	0	16	5	4	0	14	5
Complaints Regarding Duty of Fair Representation (s.12)	2010	21	98	82	26	0	5	5	46[1]	0	37	1
	2009	24	93	96	36	0	1	5	54[2]	0	21	0
Other Unfair Labour Practice Complaints (ss.5 - 9)[3]	2010	64	215	220	3	0	136	32	49	0	59	76
	2009	49	186	171	0	0	135	23	13	0	64	44
Religious Exemption (s.17)	2010	1	6	7	2	0	0	4	1	0	0	0
	2009	2	4	5	0	0	0	5	0	0	1	0
Certification Applications (ss.18, 19 and 28)	2010	57	160	166	1	48	0	72	45	0	51	142
	2009	54	187	184	1	58	0	88	37	0	57	164
Certification Variances (ss.28 and 142)	2010	30	128[4]	137[5]	0	10	0	119	8	0	21	31
	2009	33	152[6]	155[7]	12	15	0	118	10	0	30	45

[1] 25 of the 46 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[2] 33 of the 54 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[3] In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. Figures in this category reported prior to 1996 cannot be compared to figures in this category reported from 1996 to present.
[4] Includes four partial decertification applications.
[5] Includes two partial decertification applications. See TABLE 3.
[6] Includes five partial decertification applications.
[7] Includes seven partial decertification applications. See TABLE 3.

TABLE 1: Applications and Complaints Filed and Disposed of in 2010 (including comparative figures for 2009)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Certification Cancellations (ss.33 and 142)[1]	2010	9	48	52	5	2	0	33	12	0	5	34
	2009	13	37	41	1	7	0	28	5	0	9	32
Cancellation of a Voluntary Recognition (s.34)	2010	2	5	7	1	2	0	3	1	0	0	3
	2009	2	9	9	3	0	2	3	1	0	2	6
Permission to Alter Conditions of Employment (ss.32 and 45)	2010	0	3	3	0	0	3	0	0	0	0	3
	2009	0	0	0	0	0	0	0	0	0	0	0
Alleged Unlawful Alteration of Employment Terms and Conditions (ss.32 and 45)	2010	7	20	22	0	0	12	3	7	0	5	8
	2009	5	27	25	0	0	21	4	0	0	7	8
Declaration of Successor Status												
Successor Employer (s.35)	2010	16	45	52	4	7	0	33	8	0	9	5
	2009	22	52	58	1	6	0	45	6	0	16	4
Successor Union (s.37)[2]	2010	4	9	12	0	0	0	11[3]	1	0	1	0
	2009	1	14	11	0	0	0	11[4]	0	0	4	0
Common Employer (s.38)	2010	8	8	8	0	3	0	2	3	0	8	1
	2009	11	11	14	1	6	0	4	3	0	8	4
Accreditation Applications (s.43)	2010	0	0	0	0	0	0	0	0	0	0	0
	2009	0	0	0	0	0	0	0	0	0	0	0

[1] See TABLE 3.

[2] The workload required to process applications in this category varies widely. The Board may receive one application per collective bargaining relationship or one application covering several collective bargaining relationships. This report reflects the number of applications filed and disposed of regardless of the number of collective bargaining relationships affected by those applications (any notable discrepancies are listed below).

[3] 11 applications granted affecting 1278 collective bargaining relationships.

[4] 11 applications granted affecting 460 collective bargaining relationships.

TABLE 1: Applications and Complaints Filed and Disposed of in 2010 (including comparative figures for 2009)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Accreditation Variances (ss.43 and 142)	2010	49	6	54	0	0	0	26	28	0	1	0
	2009	1	62	14	0	0	0	14	0	0	49	0
Accreditation Cancellations (s.142)	2010	0	0	0	0	0	0	0	0	0	0	0
	2009	1	0	1	0	0	0	1	0	0	0	0
Alleged Failure to Execute or Comply with a Collective Agreement (s.49)	2010	3	12	11	0	0	7	2	2	0	4	2
	2009	4	6	7	0	0	4	2	1	0	3	3
Facilitator (s.53(5))	2010	19	34	44	0	1	0	n/a	n/a	43[1]	9	0
	2009	19	31	31	0	0	0	n/a	n/a	31[1]	19	0
First Collective Agreement (s.55)[2]	2010	4	6	10	0	0	7	n/a	n/a	3[3]	0	2
	2009	4	13	13	0	0	10	n/a	n/a	3[4]	4	0
Appointment of a Mediation Officer (s.74)[2]	2010	24	118	107	0	5	100	n/a	n/a	2[5]	35	0
	2009	16	130	122	0	6	107	n/a	n/a	9[6]	24	0

[1] Facilitator appointed.

[2] The method of coding applications in these two categories changed in 2009 (a) when an application is received under the First Collective Agreement provisions of the *Code* and a Mediation Officer was previously appointed under s. 74, the s. 74 case is disposed of as withdrawn (previously coded as other); and (b) when the parties agree to settle matters by way of mediation-arbitration or arbitration, the case is disposed of as settled (previously disposed of as other or settled).

[3] For all cases, the matter was referred to arbitration under s. 55(7).

[4] For two cases, the matter was referred to arbitration under s. 55(7); and for one case, the unit was decertified.

[5] For both cases, the units were decertified.

[6] For seven cases, no agreement reached; for one case, the business closed; and for one case, the contract terms were legislated.

TABLE 1: Applications and Complaints Filed and Disposed of in 2010 (including comparative figures for 2009)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Collective Agreement Arbitration Bureau (CAAB)[1]												
Section 86 (Appointment of Arbitrator)	*2010*	*8*	*63*	*65*	*1*	*29*	*0*	*n/a*	*n/a*	*35*[2]	*6*	*n/a*
	2009	*17*	*64*	*73*	*0*	*34*	*6*	*n/a*	*n/a*	*33*[2]	*8*	*n/a*
Section 87 (Appointment of Settlement Officer)	*2010*	*6*	*26*	*29*	*1*	*3*	*18*	*n/a*	*n/a*	*7*[3]	*3*	*n/a*
	2009	*14*	*44*	*52*	*1*	*10*	*26*	*n/a*	*n/a*	*15*[3]	*6*	*n/a*
Section 104 (Appointment of Arbitrator)	*2010*	*4*	*223*	*222*	*1*	*69*	*37*	*n/a*	*n/a*	*115*[4]	*5*	*n/a*
	2009	*4*	*214*	*214*	*0*	*53*	*47*	*n/a*	*n/a*	*114*[4]	*4*	*n/a*
Section 105 (Appointment of Mediator-Arbitrator)	*2010*	*0*	*3*	*3*	*1*	*2*	*0*	*n/a*	*n/a*	*0*	*0*	*n/a*
	2009	*0*	*0*	*0*	*0*	*0*	*0*	*n/a*	*n/a*	*0*	*0*	*n/a*
Combined CAAB Sections	***2010***	***18***	***315***	***319***	***4***	***103***	***55***[5]	***n/a***	***n/a***	***157***	***14***	***n/a***
	2009	***35***	***322***	***339***	***1***	***97***	***79***[6]	***n/a***	***n/a***	***162***	***18***	***n/a***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss.57-67 and ss.69-70)	2010	5	21	23	0	0	19	2	2	0	3	8
	2009	8	42	45	1	0	19	23	2	0	5	17

[1] These applications were included in the *LRB Annual Report* for the first time in 2003. Beginning in 2004, figures for individual sections as well as the combined totals for CAAB (ss.86, 87, 104, 105) are included in this report. In general, for this category, Withdrawn indicates withdrawal / settlement prior to any appointments and Settled indicates withdrawal / settlement subsequent to the appointment of a Settlement Officer but prior to appointment of an Arbitrator. See individual section notes regarding Other dispositions.

[2] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted).

[3] Matter referred back to the parties under Section 87(3).

[4] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted). For 20 cases in 2010 and 29 cases in 2009, a Settlement Officer was appointed in addition to an Arbitrator.

[5] A Settlement Officer was appointed for 91 CAAB applications disposed of in 2010: 55 disposed of as Settled and 36 disposed of as Other. Of these 91 applications, 73 (80%) resulted in full and final settlement.

[6] A Settlement Officer was appointed for 123 CAAB applications disposed of in 2009: 79 disposed of as Settled and 44 disposed of as Other. Of these 123 applications, 86 (70%) resulted in full and final settlement.

TABLE 1: Applications and Complaints Filed and Disposed of in 2010 (including comparative figures for 2009)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Replacement Workers (s.68)	2010	0	4	4	0	0	4	0	0	0	0	0
	2009	0	6	6	0	0	4	1	1	0	0	2
Essential Service Designations (s.72)	2010	0	8	7	0	0	5	2	0	0	1	0
	2009	3	18	21	0	0	13	8	0	0	0	6
Last Offer Vote (s.78)	2010	0	14	14	0	0	0	14[1]	0	0	0	2
	2009	0	15	15	0	0	0	15[2]	0	0	0	0
Review of Arbitration Award (s.99)	2010	18	29	31	0	5	0	8	18	0	16	0
	2009	25	32	39	0	6	0	4	29	0	18	0
Interim Order (s.133(5))	2010	1	5	5	0	2	0	1	2	0	1	1
	2009	0	8	6	0	4	0	0	2	0	1	3
File an Order in Supreme Court (s.135)	2010	2	14	15	0	9	0	6	0	0	1	0
	2009	2	41	41	0	15	0	26	0	0	2	0
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	2010	61	44	50	0	23	0	0	0	27[3]	55	11
	2009	51	39	29	4	7	0	0	0	18[3]	61	16
Reconsideration of a Decision (s.141)	2010	8	49	51	0	2	0	10	39[4]	0	6	0
	2009	10	46	48	0	4	0	8	36[5]	0	8	0

[1] In seven cases the final offer was rejected; in four cases the offer was accepted; in one case ballots were not counted: BCLRB B52/2010; and in two cases ballots were not counted: Consent Order issued.

[2] In 10 cases the final offer was rejected; in two cases the offer was accepted; in two cases the application was withdrawn prior to the ballots being counted; and in one case the vote was not counted as a breach of Section 11 was found.

[3] Ruling made.

[4] For 36 of the 39 applications dismissed in 2010, leave to apply was denied.

[5] For 30 of the 36 applications dismissed in 2009, leave to apply was denied.

TABLE 1: Applications and Complaints Filed and Disposed of in 2010 (including comparative figures for 2009)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Declaratory Opinion (excluding Declaratory Opinions Pertaining to Part V of the Legislation) (s.143)	2010	1	9	7	0	1	0	3	3	0	3	2
	2009	5	0	4	0	1	0	1	2	0	1	1
Miscellaneous	2010	26	87[1]	88[2]	2	6	32	28	20	0	25	13
	2009	21	82[3]	77[4]	0	8	18	36	15	0	26	7
Total	**2010**	**479**	**1579**	**1667**	**52**	**229**	**418**	**430**	**306**	**232**	**391**	**357[5]**
	2009	**432**	**1706**	**1659**	**63**	**242**	**430**	**478**	**223**	**223**	**479**	**367[6]**

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

[1] Includes two stay applications.
[2] Includes three stay applications (two were dismissed and one was withdrawn).
[3] Includes two stay applications.
[4] Includes nine stay applications (one was granted and eight were dismissed).
[5] 357 applications disposed of in 2010 were heard sometime during the process. In 2010, the Board held 241 hearings (including 193 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2010.
[6] 367 applications disposed of in 2009 were heard sometime during the process. In 2009, the Board held 248 hearings (including 199 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2009.

Chart 1: Number of Applications and Complaints FILED in 2010 - by Type

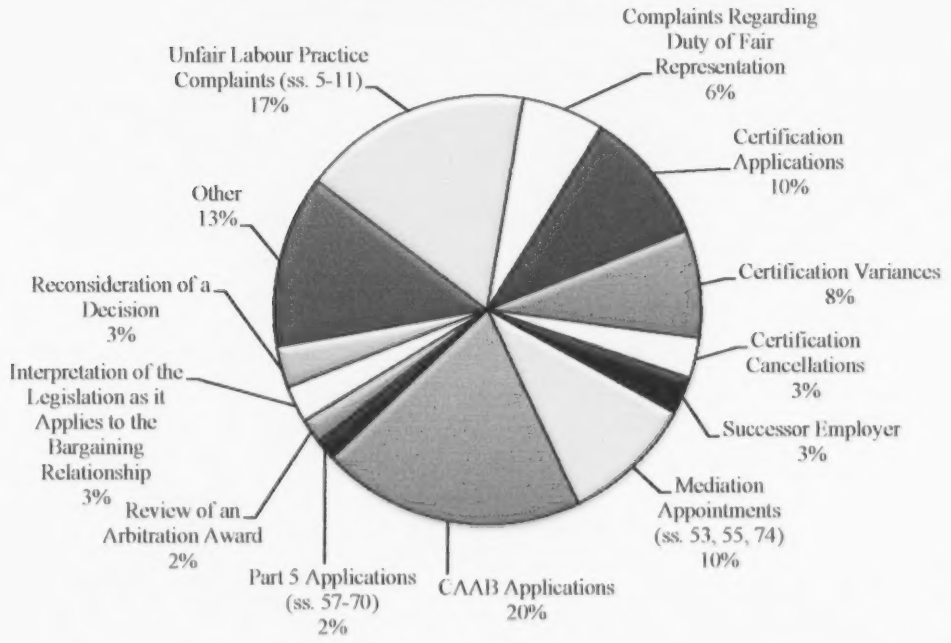
Complaints Regarding Duty of Fair Representation 6%
Certification Applications 10%
Certification Variances 8%
Certification Cancellations 3%
Successor Employer 3%
Mediation Appointments (ss. 53, 55, 74) 10%
CAAB Applications 20%
Part 5 Applications (ss. 57-70) 2%
Review of an Arbitration Award 2%
Interpretation of the Legislation as it Applies to the Bargaining Relationship 3%
Reconsideration of a Decision 3%
Other 13%
Unfair Labour Practice Complaints (ss. 5-11) 17%

TABLE 1A: Certification Applications and Certification Cancellations Under s. 33(2) Granted - Analyzed by Industry
Year 2010

Type of Industry	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Number of Employees[2]	Number of Applications Granted	Number of Employees[3]
Accommodation, Food and Beverage Services	2	245	3	33
Business Services	2	18	0	0
Construction	10	297	3	18
Educational Services	5	101	0	0
Government Services	1	4	0	0
Health and Social Services	29	1498	3	71
Manufacturing	5	309	7	152
Mining (Including Milling), Quarrying and Oil Wells	2	283	0	0
Retail Trade	5	69	2	38
Transportation and Storage	6	67	2	92
Wholesale Trade	2	53	1	6
Other Services	3	12	3	98
Total	**72**	**2956**	**24**	**508**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form.

[3] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer.

Chart 1A: Certification Applications Granted by Industry Type (Number of Applications)

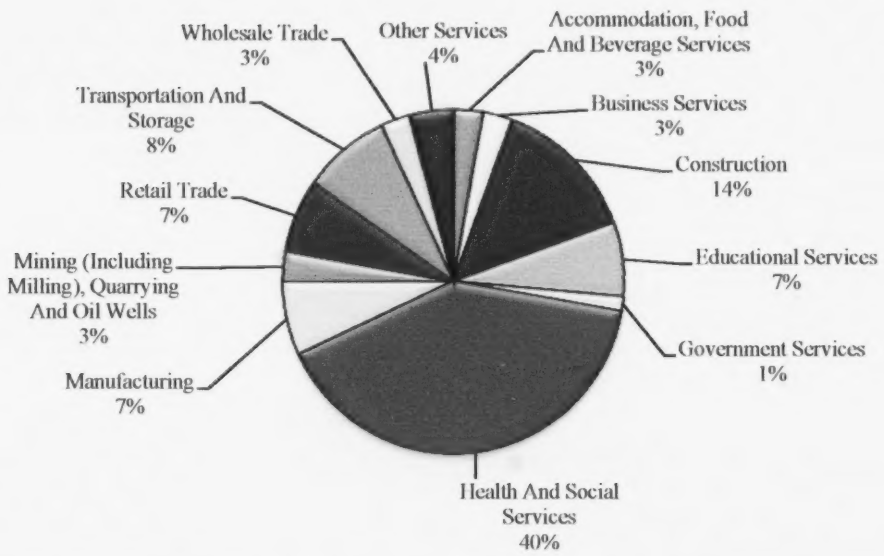

Chart 1B: Certification Applications Granted by Industry Type (Number of Employees)

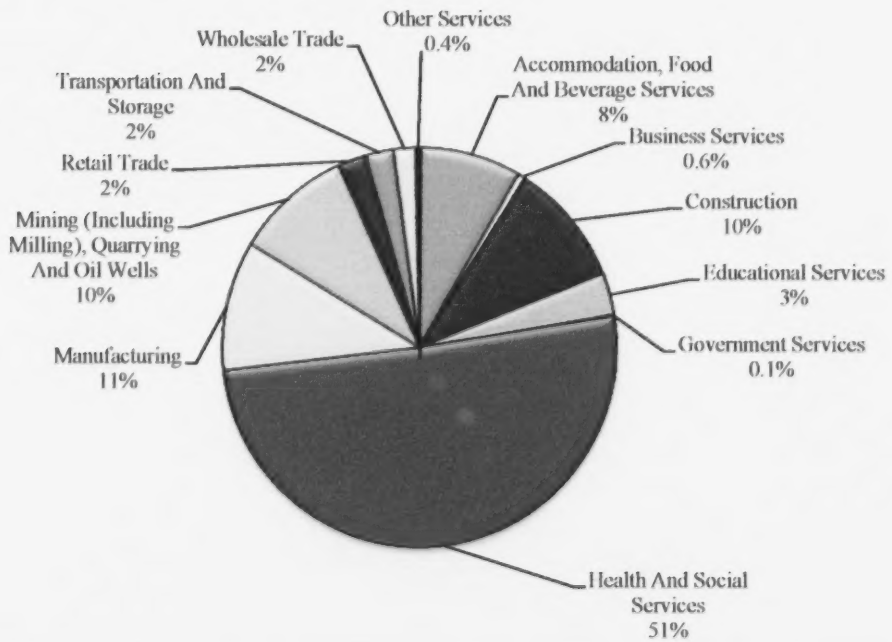

Chart 1C: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Applications)

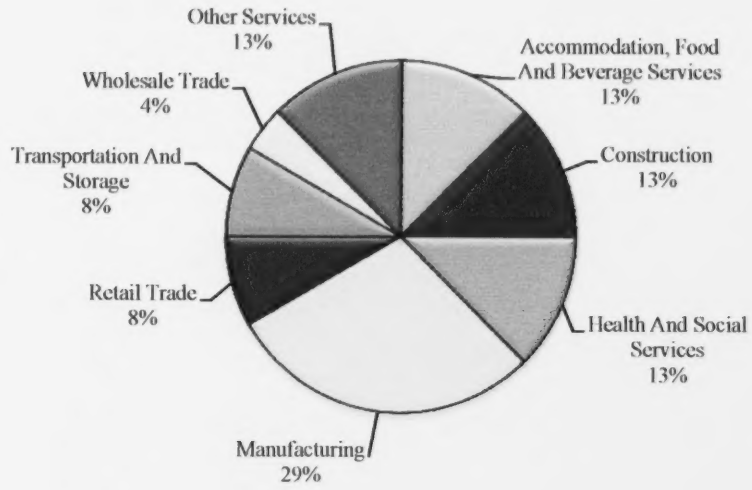

Chart 1D: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Employees)

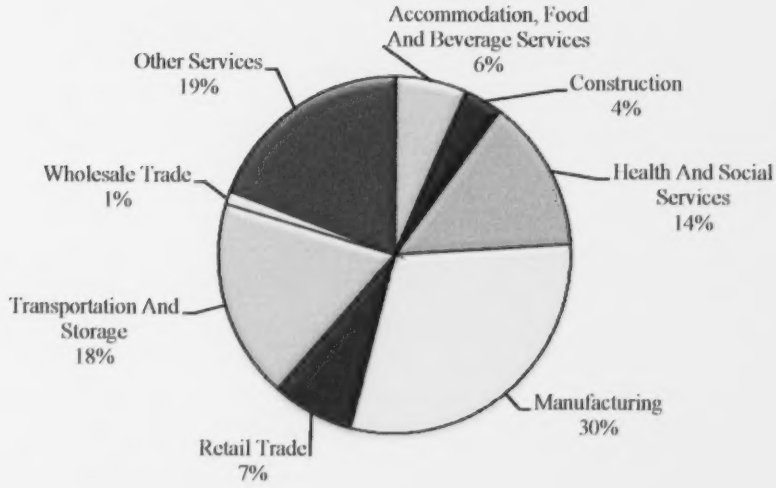

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted - Analyzed by Union
Year 2010

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed[2]	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
BCGEU (not including Brewery Workers)	24	12	1	2
Boilermakers	1	1	0	0
Carpenters (not including CMAW or CAST councils)	3	3	3	1
CAST (formerly CFAW Bargaining Council)	0	0	1	0
CMAW Bargaining Council	3	2	0	0
CAW	3	1	5	3
CLAC	10	7	0	0
CEP	4	2	1	1
CUPE	5	5	1	1
Electrical Workers (IBEW)	6	2	4	3
Fire Fighters	2	1	0	0
Food and Commercial Workers (UFCW)	14	4	4	2
Heat and Frost Workers	0	0	1	0
Hospital Employees Union (HEU)	14	10	4	1
Hotel Employees	1	1	1	1
IATSE	2	0	0	0
Labourers	11	2	4	1
Machinists and Aerospace Workers	4	1	2	2
Marine Workers	1	1	0	0
Nurses (BCNU)	16	4	0	0
Office and Professional Employees (COPE)	0	1	0	0
Operating Engineers (IUOE)	4	2	1	1
Owner-Operators (COOWA)	1	1	0	0

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted - Analyzed by Union
Year 2010

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed[2]	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
Painters (not including Glaziers 1527)	4	0	0	0
Plumbers & Refrigeration Workers	2	0	1	1
Post-Secondary Educators (FPSE)	3	2	0	0
PPWC	7	3	1	1
Service Employees (SEIU)	1	0	0	0
Sheet Metal Workers	1	0	1	1
Steelworkers	8	1	2	1
Teamsters	6	4	3	1
Total	**159[3]**	**72[3]**	**39[4]**	**24**

[1] Only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the number of applications filed and/or granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[2] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[3] Adding the individual numbers in the column produces a larger number because two applications were filed jointly by more than one union and one such application was granted.

[4] Adding the individual numbers in the column produces a larger number because two applications were filed jointly by more than one union.

TABLE 2: Certification Applications and Certification Cancellations Under s. 33(2)
Filed / Decided
Year 2010

Type of Application		Filed[1]	Granted	Dismissed	Total Decided
Total Certification Applications	Number of Applications	159	72	45	117
	Number of Employees[2]	5752	2956	10 421	13 377
Certification Applications for Previously Unorganized Employees	Number of Applications	142	63	36	99
	Number of Employees	5313	2518	1355	3873
Certification Applications for Organized Employees	Number of Applications	17	9	9	18
	Number of Employees	439	438	9066	9504
Total Applications to Cancel a Certification Brought by Employees under s. 33(2)[3]	Number of Applications	39	24	10	34
	Number of Employees[4]	1016	508	441	949

[1] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

[3] Since only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table, the number of applications filed and/or decided may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[4] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer. The number of employees on an application for which a Return of Poll is either not available or not applicable (in particular, for the number of applications Filed) is based on the bargaining unit size listed in the report of the Industrial Relations Officer.

TABLE 2A: Certification Applications and Certification Cancellations Under s. 33(2) Granted - Analyzed by Size of Bargaining Unit
Year 2010

Size of Bargaining Unit (Number of Employees)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Percentage of Applications Granted	Number of Applications Granted	Percentage of Applications Granted
1 to 10	25	35%	12	50%
11 to 20	17	24%	4	17%
21 to 30	6	8%	2	8%
31 to 40	5	7%	2	8%
41 to 50	2	3%	1	4%
51 to 60	3	4%	1	4%
61 to 70	2	3%	0	0%
71 to 80	2	3%	0	0%
81 to 90	0	0%	2	8%
91 to 100	1	1%	0	0%
101 to 200	5	7%	0	0%
Over 200	4	6%	0	0%
Total	**72**	**100%**	**24**	**100%**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

Chart 2A: Certification Applications Granted in 2010
Analyzed by Size of Bargaining Unit (Percentage of Applications)

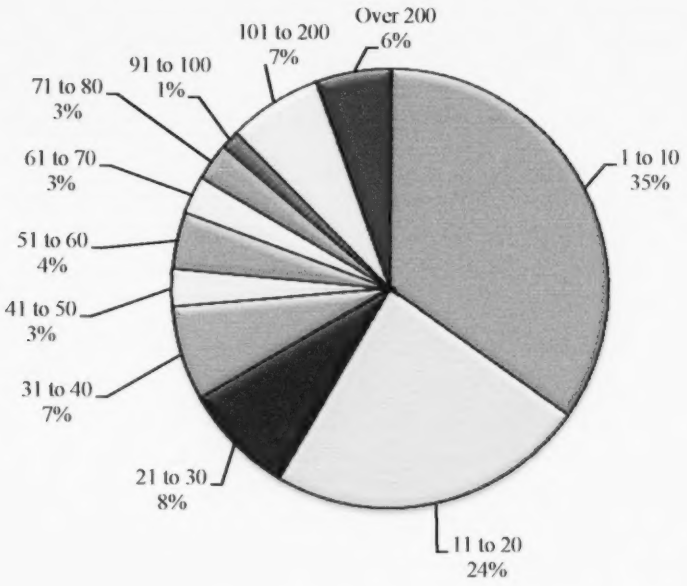

Chart 2B: Certification Cancellations (s.33(2)) Granted in 2010
Analyzed by Size of Bargaining Unit (Percentage of Applications)

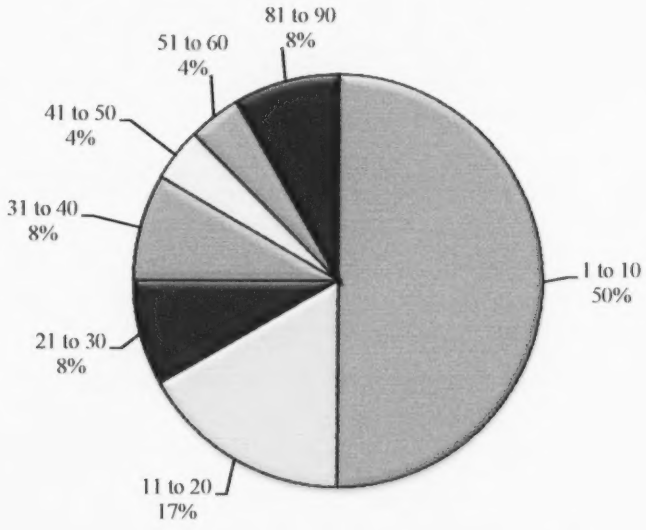

TABLE 2B: Certification Applications Granted Between 1990 and 2010 by Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		Total
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348[1]
1999	239	65.8%	65	17.9%	59	16.3%	363[2]
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88
2003	54	72.0%	11	14.7%	10	13.3%	75[3]
2004	58	65.9%	17	19.3%	13	14.8%	88
2005	170	63.9%	62	23.3%	34	12.7%	266[4]
2006	58	65.2%	21	23.6%	10	11.2%	89
2007	72	59.5%	26	21.5%	23	19.0%	121
2008	62	64.6%	13	13.5%	21	21.9%	96
2009	43	48.9%	20	22.7%	25	28.4%	88
2010	42	58.3%	13	18.1%	17	23.6%	72

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

[2] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

[3] Five separate certification applications for the same employee bargaining unit were granted and simultaneously consolidated resulting in the issuance of a single certification; thus the total number of new certifications granted for a bargaining unit size between 1 and 20 employees is 50 and the total number of certifications granted in 2003 is 71.

[4] A number of applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit(s). A further application was granted and two certifications issued as a result. In total, in 2005, 266 certification applications were granted resulting in 249 certifications being issued.

TABLE 3: Applications to Cancel Certifications Disposed of Year 2010 and Year 2009

Type of Applicant (and Application)	Year	Granted	Dismissed	Not Proceeded With	Withdrawn	Total
Filed by Employee(s) (s. 33)	2010	24	10	5	2	41
	2009	24	3	1	4	32
Filed by Employee(s) (s. 142 - Partial Decertification)[1]	2010	1	1	0	0	2
	2009	2	1	2	2	7
Filed by Employer(s)	2010	5	2	0	0	7
	2009	1	2	0	2	5
Filed by Union(s)	2010	4	0	0	0	4
	2009	3	0	0	1	4
Total	**2010**	**34**	**13**	**5**	**2**	**54**
	2009	**30**	**6**	**3**	**9**	**48**

[1] Applications filed under s. 142 for Partial Decertification are included in TABLE 1 under the category Certification Variances; therefore, subtracting the number of applications filed by employees under s. 142 from the Total number of applications disposed of in TABLE 3 will equal the number of applications disposed of in TABLE 1 for the Certification Cancellations category.

TABLE 4: Reconsiderations Disposed of in 2010

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty of Fair Representation (s. 12)	13	1	1	0	0	15
Duty of to Bargain in Food Faith (s. 11)	1	0	0	0	0	1
Other Unfair Labour Practice Complaint (ss. 5-9)	2	1	0	0	0	3
Certification	6	1	2	1	0	10
Certification Variance	1	0	1	0	0	2
Cancellation of Certification	0	0	1	0	0	1
Declaration of Employer Successor Status	1	0	0	0	0	1
Alleged Illegal Strikes, Lockouts, Picketing, etc. (ss. 57-70)	1	0	1	0	0	2
Review of Arbitration Award	8	0	2	0	0	10
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	2	0	1	1	0	4
Ruling re: Procedure	1	0	0	0	0	1
Ruling re: Representation Vote	0	0	1	0	0	1
TOTAL	**36**	**3**	**10**	**2**	**0**	**51**

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	7	1	7	0	0	15
Union(s)	14	1	2	2	0	19
Employee(s)	15	1	1	0	0	17
TOTAL	**36**	**3**	**10**	**2**	**0**	**51**

Chart 4: Reconsiderations Disposed of in 2010
(Percentage by Type of Application Being Reconsidered)

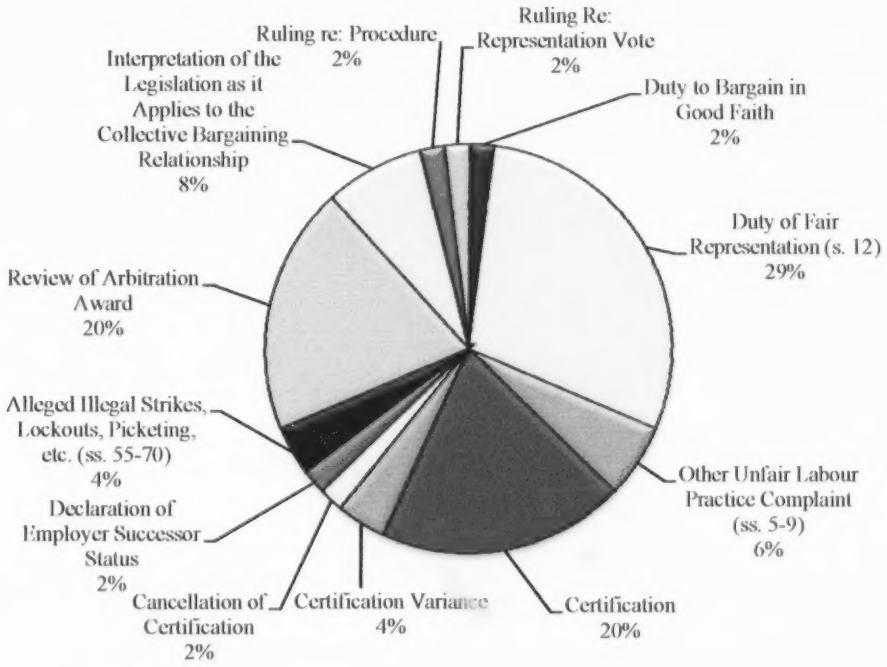

TABLE 5: "Success" Rate of Reconsiderations Disposed of in 2000 to 2010

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
2000	129	11	118	19	16%
2001	111	13	98	23	23%
2002	92	8	84	19	23%
2003	111	11	100	19	19%
2004	112	6	106	12	11%
2005	87	11	76	8	11%
2006	72	9	63	8	13%
2007	65	11	54	5	9%
2008	47	6	41	6	15%
2009	48	4	44	8	18%
2010	51	2	49	10	20%

TABLE 6: "Success" Rate of Reviews of Arbitration Awards Disposed of in 2000 to 2010

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
2000	69	5	64	15	23%
2001	60	13	47	16	34%
2002	58	4	54	12	22%
2003	55	7	48	10	21%
2004	58	8	50	11	22%
2005	36	4	32	6	19%
2006	50	7	43	11	26%
2007	26	3	23	5	22%
2008	37	7	30	7	23%
2009	39	6	33	4	12%
2010	31	5	26	8	31%

Chart 5: "Success" Rate - Reconsiderations

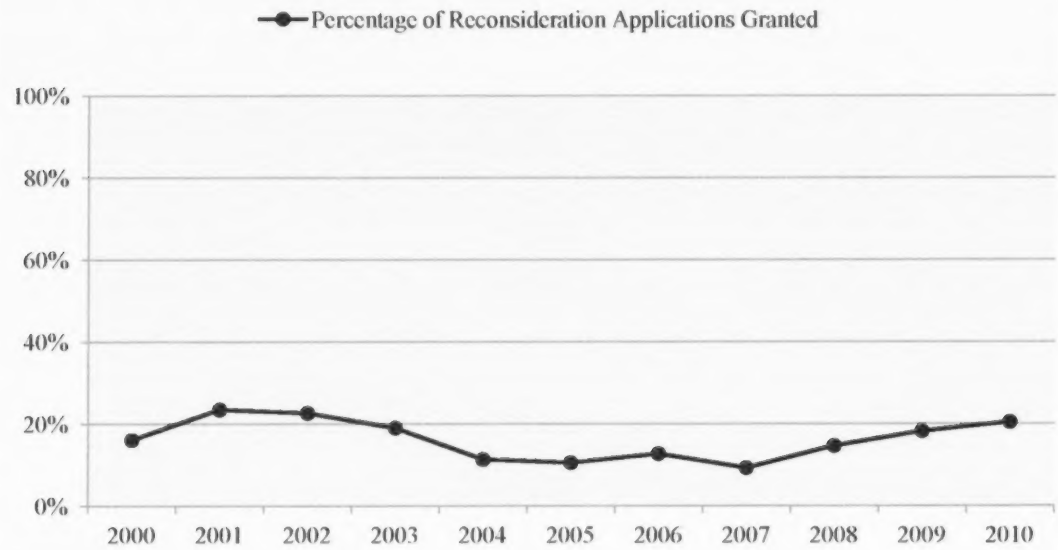

Chart 6: "Success" Rate - Review of Arbitration Award

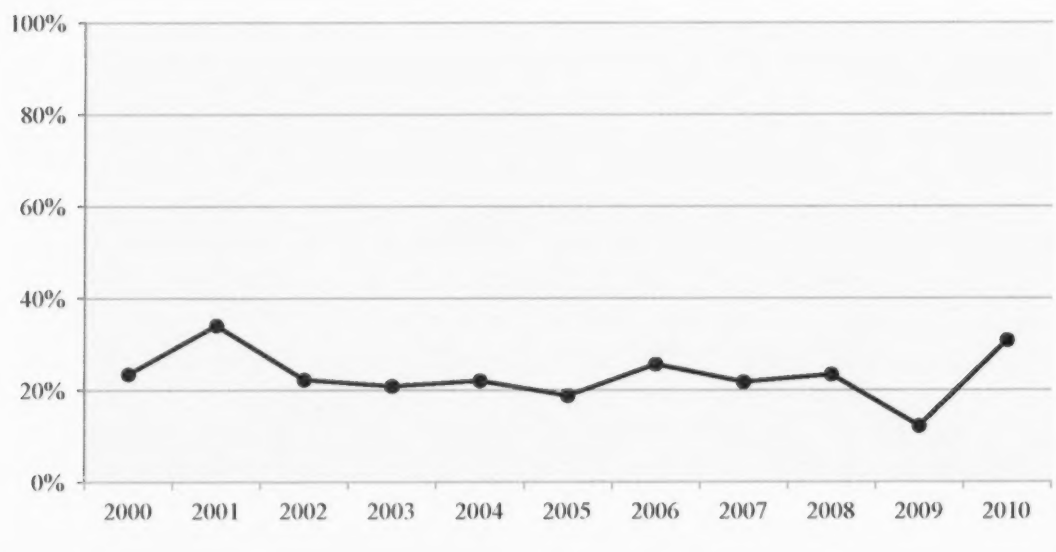

TABLE 7: Applications and Complaints Filed in 2010 Analyzed by Applicant

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs (s. 10)	0	0	15	0	15
Complaints Regarding Duty to Bargain in Good Faith (s. 11)	8	36	0	0	44
Complaints Regarding Duty of Fair Representation (s. 12)	0	0	98	0	98
Other Unfair Labour Practice Complaints (ss. 5-9)	4	190	34	0	215
Religious Exemption (s. 17)	0	0	6	0	6
Certification Applications (ss. 18, 19 and 28)	0	160	0	0	160
Certification Variances (ss. 28 and 142)	35	96	4	0	128
Certification Cancellations (ss. 33 and 142)	1	3	44	0	48
Cancellation of a Voluntary Recognition (s. 34)	1	0	4	0	5
Permission to Alter Conditions of Employement	0	3	0	0	3
Alleged Unlawful Alteration of Employment Terms and Conditions (ss. 32 and 45)	0	20	3	0	20
Declaration of Successor Status					
Successor Employer (s. 35)	9	37	0	0	45
Successor Union (s. 37)	0	9	0	0	9
Common Employer (s. 38)	1	7	0	0	8
Accreditation Variances (ss. 43 and 142)	6	0	0	0	6
Alleged Failure to Execute or Comply with a Collective Agreement (s. 49)	1	11	0	0	12
Facilitator (s. 53(3))	31	30	0	0	34
First Collective Agreement (s. 55)	2	4	0	0	6
Appointment of a Mediation Officer (s. 74)	49	75	0	0	118
Collective Agreement Arbitration Bureau (CAAB)					
Section 86 (Appointment of Arbitrator)	*2*	*61*	*0*	*0*	*63*
Section 87 (Appointment of Settlement Officer)	*3*	*23*	*0*	*0*	*26*
Section 104 (Appointment of Arbitrator)	*1*	*222*	*0*	*0*	*223*
Section 105 (Appointment of Mediator-Arbitrator)	*0*	*3*	*0*	*0*	*3*
Combined CAAB Sections	***6***	***309***	***0***	***0***	***315***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss. 57-67 and ss. 69-70)	10	10	1	0	21

TABLE 7: Applications and Complaints Filed in 2010 Analyzed by Applicant – *continued*

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Replacement Workers (s. 68)	0	4	0	0	4
Essential Service Designations (s. 72)	0	0	0	8	8
Last Offer Vote (s. 78)	14	0	0	0	14
Review of Arbitration Award (s. 99)	7	12	10	0	29
Interim Order (s. 133(5))	1	4	0	0	5
File an Order in Supreme Court (s. 135)	4	9	1	0	14
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s. 139)	6	37	1	0	44
Reconsideration of a Decision (s. 141)	13	18	18	0	49
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation)	3	6	0	0	9
Miscellaneous	21	60	6	0	87
TOTAL	**233**	**1150**	**245**	**8**	**1579**

[1] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 8: Time Required to Process Certain Applications - Date of Disposition Year 2010

Type of Application	Number of Applications Disposed of[1]	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under S.6 of the *Labour Relations Code* Where a Dismissed Employee is Involved	36	84	38.5
Complaints Regarding Duty of Fair Representation (S.12)	56	141	101.5
Certification Applications (Ss.18, 19, 28)	165	50	13
Certification Cancellations (S.33(2))	36	17	12.5
Declaration of Successor Employer (S.35)	48	88	30
Common Employer (S.38)	8	219	193
Review of Arbitration Award (S.99)	31	228	130
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (S.139)	50	265	97.5
Reconsideration of a Decision (S.141)	51	49	27

[1] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

TABLE 9: Officer Assignments Completed in 2010

	Assignment Outcome						
Type of Application / Complaint	Settled/ Withdrawn	Resolved Issues / Assisted at Hearing	Narrowed Issues /Assisted at Hearing	To Adjudication (No Informal)	Report of Investigation	Other[1]	Total
Part V (ss.57 to 70)[2]	2	1	0	0	0	0	3
Unfair Labour Practice (ss.5 to 11)[3]	42	1	5	15	0	1	64
Certification & Variance to Expand the Bargaining Unit[4]	48	16	33	7	0	1	105
Decertification & "Partial Decertification"[5]	10	5	9	3	0	0	27
Collective Agreement Arbitration (CAAB) (ss.86, 87, 104, 105)[6]	54	0	1	0	0	15[7]	70
Other	19	1	3	5	2	2	32
TOTAL	**175**	**24**	**51**	**30**	**2**	**19**	**301**

[1] Includes Consent Order issued.
[2] Includes complaints regarding strikes, lockouts, picketing, etc.
[3] Excludes duty of fair representation (s.12)
[4] In reports prior to 2001, the number of certification & expanded bargaining unit applications Settled / Withdrawn were included in the Resolved Issues / Assisted at Hearing assignment outcome category.
[5] Prior to 2003 applications for 'partial decertification' were included under Other types of applications.
[6] Reporting of assignments under the Collective Agreement Arbitration provisions of the *Labour Relations Code* first appears in the 2003 annual report.
[7] Includes 11 assignments closed with matter proceeding to arbitration.

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously s. 8(4)(c) of the *Labour Relations Code* and the *Industrial Relations Act*)

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	12	3
2003	13	0
2004	8	1
2005	7	1
2006	8	0
2007	10	1
2008	17	2
2009	16	0
2010	18	1

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously s. 8(4)(c) of the *Labour Relations Code* and the *Industrial Relations Act)*

Year	Requested	Granted
TOTAL	**738**	**42**

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.
Note: Figures for 1993 to 1995 were not included in the Annual Reports for these years.

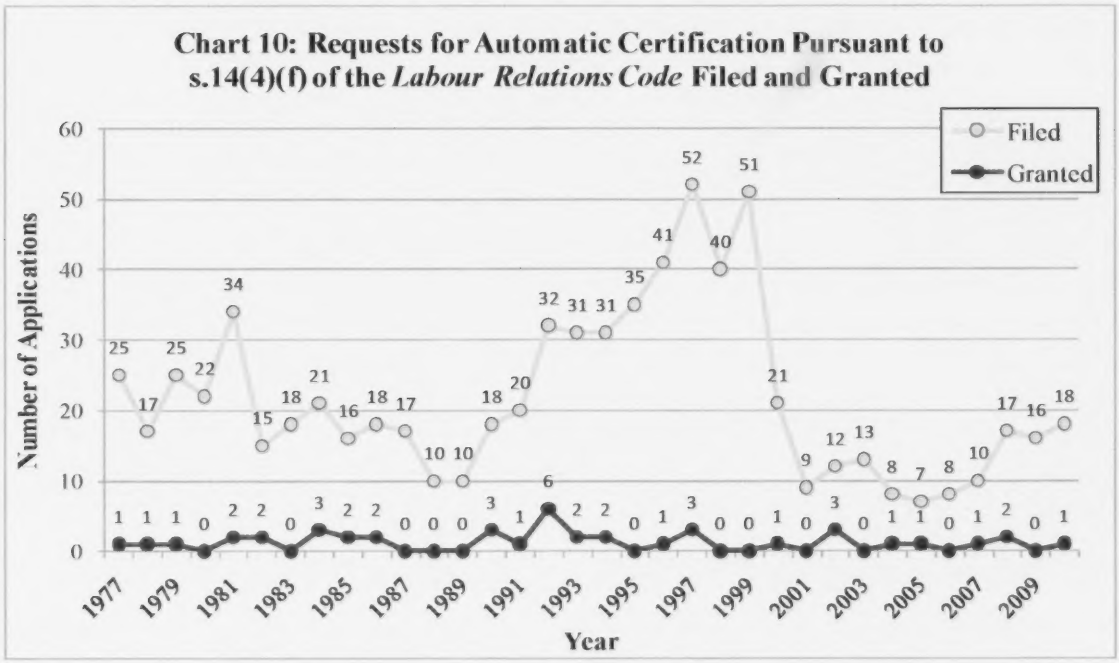

Table 11: Applications Disposed of – Complaints Regarding Duty of Fair Representation

Year	Total Applications Disposed of	Not Proceeded With	Settled	Processed to a Final Decision	Granted	Dismissed
1996	184	120	16	48	3	45
1997	206	120	8	78	8	70
1998	263	140	16	107	4	103
1999	228	96	21	111	5	106
2000	196	85	30	81	3	78
2001	224	95	47	82	7	75
2002	186	62	35	89	1	88
2003	192	53	28	111	5	106
2004	132	40	13	79	8	71
2005	101	44	10	47	5	42
2006	99	34	9	56	1	55
2007	90	39	9	42	0	42
2008	70	29	7	34	2	32
2009	96	36	1	59	5	54
2010	82	26	5	51	5	46